

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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Tamara J. Townsend,

Plaintiff,

v.

Ethicon, Inc., and Johnson & Jonson,

Defendants.

Case No. 2:20-cv-01984-APG-DJA

Order

The parties—Plaintiff Tamara J. Townsend and Defendants Ethicon, Inc. and Johnson & Johnson—have filed a joint motion to reopen discovery (ECF No. 104), a joint status report (ECF No. 105), and proposed scheduling order (ECF No. 107). Having reviewed the joint motion to reopen discovery, the Court finds good cause to reopen discovery for the limited purpose of addressing changes in Plaintiff’s damages. Federal Rule of Civil Procedure 16(b)(4) allows the Court to modify a scheduling order to reopen discovery “only for good cause.” Fed. R. Civ. P. 16(b)(4). The good cause standard primarily considers the diligence of the party seeking the amendment. *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 609 (9th Cir. 1992). Here, the parties agree on reopening discovery to address Plaintiff’s damages that Plaintiff asserts she has continued to incur since the close of discovery two years ago in the multidistrict litigation. (ECF No. 104 at 1-2). Because Plaintiff’s damages are ongoing, the parties are unlikely to capture the full extent of her damages without additional discovery, regardless of their diligence. The Court thus grants the joint motion to reopen discovery.

The Court also grants the parties proposed scheduling order in part. Certain of the parties’ proposed deadlines—for updated fact sheets, mediation, video designations, a hearing on designations, trial, motions in limine, and the pretrial conference—are not contemplated by the Local Rules or the court’s prior orders. (ECF No. 107 at 3-4). The parties’ proposed deadlines

1 for updated fact sheets, medical authorizations, and video designations (the date for which the
2 parties state they will separately propose) appear to be the type more appropriately decided and
3 enforced by the parties themselves. Like they would with deadlines to respond to discovery
4 requests, the parties are invited to govern these deadlines themselves and seek Court intervention
5 only in the event the deadlines are not followed.

6 The Court will also not set a mediation or hearing on designations unless and until they
7 become necessary, and the parties move for them. To do otherwise would clog the Court
8 calendar. While magistrate judges are empowered to conduct settlement conferences and
9 hearings on discovery matters under Local Rule IB 1-7(b), the Court does not set these until the
10 parties move for them and demonstrate their necessity.

11 Under Local Rule 16-2, Courts do not conduct pretrial conferences. Under Local Rule 16-
12 4 the parties will provide three alternative dates for trial to the Court in their joint pretrial order,
13 not sooner. Under Local Rule 16-3, the deadline for motions in limine is thirty days before trial,
14 again, which deadline is set after the parties file their joint pretrial order. The Court thus grants
15 the parties' stipulation in part only with respect to fact discovery, experts, summary judgment, the
16 motion regarding Dr. Rosenzweig, the *Daubert* motion, and the joint pretrial order.

17 **IT IS THEREFORE ORDERED** that the parties' joint motion to reopen discovery (ECF
18 Nol. 104) is **granted**.

19 **IT IS FURTHER ORDERED** that the parties stipulated discovery plan (ECF No. 107) is
20 **granted in part**. The following deadlines shall govern the limited discovery and motions in this
21 case:

22		
23	Fact discovery deadline	July 7, 2022
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25	Deadline for Plaintiff's supplemental case	August 8, 2022
26	specific expert reports and disclosure of	
27	vocational and/or damages expert(s) limited to	
28	occurrences after the close of MDL discovery,	
	if any	

1 2 3 4	Deadline for Defendants' supplemental case specific expert report and disclosure of rebuttal expert vocational and/or damages expert(s), if any	September 5, 2022
5 6	Deadline for Defendants to file self-contained motion for summary judgment	October 5, 2022
7 8	Deadline for Defendants to file supplemental motion on Dr. Rosenzweig	October 5, 2022
9 10	Deadline for <i>Daubert</i> motions on open issues	October 5, 2022
11 12	Joint pretrial order	October 14, 2022

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DATED: February 2, 2022



DANIEL J. ALBREGTS
UNITED STATES MAGISTRATE JUDGE